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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3029 OF 2004
IN
WRIT PETITION NO.4696 OF 2002

The Vaishya Sahakari Bank Ltd. Applicant
versus
M/s.Kalpana Art Studio & others Respondents

Mr.N.N.Bhadrashety i/by A.B.Joshi for applicant
Mr.V.C.Ghosalkar for respondent no.1 & 2.

CORAM : A.S.OKA, J.

DATE : 20th April 2007

PC :

1. Heard advocates appearing for the parties. This application is filed by the petitioners in the writ petition. The petitioners in the writ petition had obtained a Recovery Certificate under section 101 of the Maharashtra Co-operative Societies Act, 1960 against respondent nos.1 to 6 in the writ petition. The orders impugned in the writ petition are dated 3rd April 2002, 1st August 2002 and 14th August 2002. On 1st August 2002 Revision Application No.397 of 2002 was disposed of. Another order dated 14th August 2002 was passed allegedly without notice to the

petitioners in the writ petition in the disposed of revision application by which second respondent has been permitted to break open the lock put up by the applicants/petitioners on the mortgaged premises. The prayer made in this application is very limited. This Court by order dated 4th September 2002 has appointed the applicant no.2-the Special Recovery Officer as the Receiver of the mortgaged and hypothecated property. The prayer in this application is for permission to sell the hypothecated movable property of respondent nos.1 to 3. The respondent nos.1 to 3 have no serious objection for the sale of hypothecated property; however, their contention is that the applicant no.2 herein should not be allowed to sell the property and this Court should appoint independent person for conducting the auction.

2. The second applicant is appointed as the Court Receiver under the orders of this Court. As of today, there is no grievance made by any parties about the appointment of the second applicant as Receiver. Therefore, the second applicant can be permitted to auction the property. However, the Registrar (Judicial-I) of this Court will appoint any Section Officer of

this Court to remain present at the time of conducting the auction and to supervise the auction. Hence, the Civil Application is disposed of by passing following order :-

(a) It will be open for the second applicant to auction the hypothecated movable property of first to third respondents after following requisite procedure and after publishing a public notice;

(b) The Registrar (Judicial-I) to nominate a Section Officer of this Court to remain present at the time of auction and to supervise the auction. The remuneration of the said officer will be payable by the first applicant;

(c) Sufficient advance notice of the auction will be served by the second applicant to the concerned respondents;

(d) The process of auction shall be completed within a period of eight weeks from today;

(e) The amount of sale price recovered in auction shall be deposited by the second applicant in this Court. After deposit of the said amount,

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the first applicant will be free to apply to this Court for withdrawal of the amount;

(f) Liberty is granted to the applicants to take out separate application as regards prayer for sale of the mortgaged immovable property;

(g) Civil Application is disposed of in the above terms.

(A.S.OKA, J.)